IN THE HIGH COURT OF UTTARANCHAL AT NATINATAL

Court No.3

Criminal Misc. Application No. 243/2003

Smt. Kanta Devi and 3 others Petitioners.

Vs.

State of Uttaranchal and another Respondents

Hon'ble Irshad Hussain, J.

This is a petition under section 482 of the Code of Criminal Procedure (for short 'Code') for quashing of the summoning order passed under section 204 of the Code by the learned Magistrate on 4.8.2003 as well s the judgment and order dated 14.10.2003 passed by the learned Sessions Judge Haridwar in criminal revision under section 397 of the 'Code'.

2. Heard Sri Vinod Sharma learned counsel for the petitioners and perused the record of the petition.

3. At the out set it is evident that the learned Sessions Judge in his revisional jurisdiction found the procedure adopted by the learned Magistrate on filing of the final report by the police as proper but did not dwelt upon the propriety of the summoning order passed by the learned Magistrate. If the Sessions Judge had invoked the jurisdiction under section 397 of the 'Code' he was legally obliged to also consider the propriety of passing the summoning order and it was not merely sufficient to record the satisfaction that the procedure of the complaint case adopted by the learned magistrate was proper and just. Considering this, the order of the learned Sessions Judge can not be maintained and the same is liable to be set aside.

4. In view of above the matter is remanded back to the learned Sessions Judge to decide the criminal revision afresh according to law and after making appreciation of the propriety of the summoning order passed by the learned Magistrate. Till the disposal of the revision afresh no coercive measures shall be initiated against the petitioners-accused.

Dated: 20-10-2003 **(Irshad Hussain,J.)**

ISB